**IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH**

**Criminal Revision 1300 of 2007**

Date of decision: 9.8.2007

Naresh Kumar …Petitioner

Versus

Smt Bala and ors …Respondents

Present: Mr RA Sheoran, Advocate for the petitioner.

**S.S.SARON, J.**

This criminal revision under Section 401 CrPC has been filed against the order dated 1.8.2007 (Annexure P7) whereby the learned Additional Sessions Judge (Fast Track Court) Bhiwani has declined the application under Section 319 CrPC for summoning respondents-1 to 4 as additional accused.

The FIR in the case has been registered on the statement of Naresh Kumar – petitioner who has alleged that on 13.11.2006 he had gone to his tubewell for watering the fields. His mother – Sumitra was also at the tubewell. After watering, he had gone to sleep at about 2 a.m. in front of the Kotha of the tubewell. His mother was also sleeping in the Kotha. At about 3 a.m. he was attacked with Lathi blows on his arms by some persons. He woke up and in the light of the bulb, he saw that Bala (respondent-1) wife of Dalbir (respondent-2) had caused injuries to him. Besides, Nafe Singh, Mahender, Rajesh (respondent-4) and Ved Parkash (respondent-3) sons of Sukh Lal, Dalbir (respondent-2) and Jaibir sons of Jai Chand and Satish son of Diwan Singh were with her armed with Lathis, Dandas and axe in their hands saying that today Naresh is alone and he be finished. Nafe Singh had an axe in his hand

and he gave a blow on the head of Naresh Kumar. Hearing the alarm, his mother – Sumitra came out of the Kotha. The axe blow given by Nafe Singh hit on both the eyes and nose. His mother raised alarm. Then his father who was watering the fields came running and above said accused ran away with their respective weapons. The motive of the occurrence is that his father had contested the elections of Panch in the year 2000 and the candidate of the opposite party had been defeated. They had also snatched money from the father of the complainant for which a case was registered at PS Badhra. Due to this, the accused had caused injuries to the petitioner. The Police had filed challan in the case and had kept Bala (respondent-1) in column No.2 of the charge report (challan) filed by it in terms of Section 173 CrPC.

Learned counsel for the petitioner has contended that Naresh Kumar, on whose statement (Annexure P1) the FIR was registered, is corroborated by the statement (Annexure P2) of Attar Singh recorded under Section 161 CrPC. Similar statement (Annexure P3) was also made by Smt Sumitra who is the mother of the petitioner and eye witness to the occurrence. It is submitted that the petitioner appeared as PW1 before the trial Court and in his statement (Annexure P4) which is the examination-in-chief, he reiterated the version as given in his statement (Annexure P1), on the basis of which the FIR was recorded. It is specifically stated that in the light of the bulb, he saw that the assailant was Bala (respondent-1) wife of Dalbir (respondednt-2) along with Dalbir, Jaibir, residents of Sarangpur, Satish son of Diwan Singh, Nafe Singh, Mahender, Rajesh (respondfent-4) and Ved Parkash (respondent-3) were also present. They were armed with Lathis and Dandas. They were saying that Naresh was alone and he be finished. Thereafter Nafe Singh inflicted axe blow which landed between his eyes and nose due to which he lost the vision of both his eyes. It is stated that he lost vision of one eye and has a weak vision of his

right eye. It is further stated that even Sumitra in his statement (Annexure P5) while appearing as PW2 has named respondents-1 to 4 as the persons who were there along with the other accused. A reference has also been made to the medical report (Annexure P6) showing the nature of injuries suffered by Naresh – petitioner. It is submitted that on the basis of evidence on record, respondents-1 to 4 were also liable to be summoned and the learned trial Court has erred in not summoning them as additional accused.

After hearing learned counsel for the petitioner and perusing the record, I find no merit in the same.

The learned trial Court, vide its impugned order dated 1.8.2007 (Annexure P7) has recorded sound reasons for not summoning respondents-1 to 4 as additional accused. It was observed that in the investigation, Bala (respondent-1) was found to have no role in the occurrence. No Lathi had been recovered. Besides, the petitioner was sleeping and woke up on the first blow having been given to him. Therefore, it was observed that it cannot be ascertained that it was given by Rajpal or the co-accused. It was also observed that the injury was superficial in nature and it was unexpected that a lady of the house would accompany 8 male members duly armed to indulge in such an act. Reliance was placed on the case of ***Ganesha v. State of Haryana*** 2007(2) RCC 699 wherein it has been held that if the person named suggestively forms a part of chain of events leading to the commission of an offence, then summoning no doubt is justified but if it merely enlarges the arena of the number of the accused because of misplaced enthusiasm of a complaint to see all those related to the accused are in the dock, then the Court is not to be swayed by mere allegations that may come in the statements of over-zealous witnesses during the course of the trial. It is not disputed that Bala (respondent-1) has been found innocent during the investigation. The challan has been filed

against those to whom offences have been made out. Nafe Singh is attributed to have caused a Kulhari blow between the eyes of the petitioner. He is admittedly facing trial. Therefore, in the circumstances, it cannot be said that the learned trial Court has committed error in not summoning respondents-1 to 4 against whom no role is made out. Besides, 5 accused are already facing trial for the injuries that have been caused to the petitioner.

In the circumstances, no ground is made out for interference by this Court in exercise of its revisional jurisdiction in the order passed by the trial Court.

Dismissed.

9.8.2007 ( S.S.SARON )
ASR JUDGE